IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 21112 of 2007(L)

PETITIONER:

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1. SAW MILL OWNERS ASSOCIATION,
   REG. NO.ER.3/66, CITY ESTATE, IIND FLOOR,
   PERUMBAVOOR, REPRESENTED BY ITS PRESIDENT,
   V.M.ALIYAR.

2. V.M. ALIYAR,
   MAM PLY WOOD INDUSTRIES, KANJIRAKKAD,
   RAYONPURAM P.O., PERUMBAVOOR.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:

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1. COMMERCIAL TAX OFFICER,
   1ST CIRCLE, PERUMBAVOOR.

2. COMMERCIAL TAX OFFICER,
   IIND CIRCLE, PERUMBAVOOR.

3. COMMISSIONER OF COMMERCIAL TAXES,
   PUBLIC OFFICE BUILDING, VIKAS BHAVAN,TRIVANDRUM.

BY GOVERNMENT PLEADER SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE COPY OF THE LIST OF MEMBERS OF THE ASSOCIATION.

EXT.P2 TRUE COPY OF THE CIRCULAR NO. 24/2000 DATED 4.9.2000 ISSUED BY THIRD RESPONDENT.

EXT.P3 DO.DO. DATED 9.1.2006 NO. 3/2006

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 21112 OF 2007

Dated this the 6th day of August, 2007

JUDGMENT

First petitioner is an association and second petitioner is a member of the association engaged in manufacture and sale of plywood, veneer, etc. The prayer in the Writ Petition is for direction to respondents 1 and 2 to permit members of the first petitioner-association to make inter-State sales after payment of advance tax. Government Pleader has referred to the counter affidavit wherein facts pertaining to second petitioner are stated. It is seen that second petitioner is irregular in payment of tax and he has not furnished C forms for any of the last four years. In the circumstances, I do not think any general direction can be issued by this Court to the assessing officers to permit members of the first petitioner to make inter-State sales because eligibility to make inter-State sales on payment of advance tax will depend upon statutory compliance by each assessee. If any member of the first petitioner association is prompt in payment of tax and furnishes declaration in Form C or remits differential tax

such member will be permitted to make inter-State sales on receipt of advance tax. In fact assessing officers can on releasing some delivery notes demand production of C Forms or payment of differential tax before the next batch of delivery notes are issued. It is also open to the assessing officers to accept Bank Guarantee for differential tax and release delivery notes conditionally on payment of advance tax at concessional rate. W.P. is therefore disposed of directing the assessing officers including respondents 1 and 2 to consider individual applications for delivery notes from members of first petitioner for making inter-State sales after verifying the assessment records and if tax payable for the past is paid, and tax for the permitted transactions are periodically paid without any delay then to allow the claim . If any member has any grievance against orders issued as above, such member is free to challenge the same and is free to raise all grounds in support thereof.

Issue photocopy tomorrow itself.

(C.N.RAMACHANDRAN NAIR)
Judge